IN THE HIGH COURT OF BOMBAY AT GOA

APPEAL FROM ORDERE NO. 21/2006

1. Shri Baburao Vithal Gurov, son of late Vital alias Vithu Ramchandra alias Rama Gurov, aged 47 years,

2. Smt. Hemlata Baburao Gurov
wife of Shri Baburao Vithal Gurov, aged 40 years,
Both No.1 and 2 residing at House No. 640/2, Guirim, Bardez, Goa;

3. Shri Shriram Vithal Gurov, son of late Vithu alias Vithal Rama Gurov, aged 45 years, Pujari;

4. Smt. Seema Shriram Gurov, wife Shriram Vithal Gurov, aged 36 years, housewife,
Both 3 and 4 residing at House No.728, Varca Vadda, Morjim,
Pernem Taluka, Goa;

5. Shri Sanjay Vithal Gurov, son of late Vithal alias Vithu Ramchandra alias Rama Gurov, aged 43 years, service,

6. Smt. Tanuja Sanjay Gurov, wife of Shri Sanjay Vithal Gurov, aged 35 years, housewife,
Both 5 ad 6 residing at MPT Quarters, Sada, Vasco-da-Gama, Goa;

7. Shri Prakash Vithal alias Vithu Ramchandra alias Rama Gurov, aged 40 years, service;

8. Smt. Chhaya Prakash Gurov, wife of Shri Prakash Vithal Gurov, aged 36

years, housewife;

Both 7 and 8 residing at Govt.
Quarters, Sada, Vasco-da-Gama, Goa;

9. Smt. Shantabai Vithal alias
Vithu Gurov, widow of Vital alias
Vithu Ramchandra alias Rama Gurov,
aged 65 years, housewife, residing at
House No.728 (old) and 490 (new),
Varcha wada, Morjim, Pernem Taluka, Goa. ..... Appellants.

V/s.

1. Mazania of Temple of Shree Morza
Devi of Morjim with office at Village Morjim,
Taluka Pernem, District North Goa,
State of Goa, through its attorney.

2. The Mamlatdar/Administrator of
Mazanias of Pernem Taluka with office
at Pernem Town, Pernem Taluka, Goa;

3. Shri Gopal Ganesh Shetgaonkar, major,
major in age, resident of House number
not known, Munang, Morjim,
Pernem Taluka, Goa;

4. Shri Laxmikant alias Kana Shetgaonkar,
major in age, resident of House number
not known, Munang,
Morjim, Pernem Taluka, Goa;

5. Shri Tulshidas Shetgaonkar,
major in age, resident of
House number not known,
Varcha wada, Morjim,
Pernem Taluka, Goa.

6. Shri Satish Sitaram Shetgaonkar,
major in age, resident of
House number not known,
Kanchole, , Morjim,

Pernem Taluka, Goa.

7. Shri Sakharam Parab,
major in age, resident of
House number not known,
Varcha wada, Morjim,
Pernem Taluka, Goa.

8. The Executive Engineer,
P.W.D. XIII (Roads),
P.W.D., Mapusa, Goa.

9. The Sarpanch,
Village Panchayat of Morjim,
with Office at Thol,
Morjim, Pernem Taluka, Goa. ..... Respondents.

Mr. Amrut Kansar, Advocate for the appellants.

Mr. J.P. Mulgaonkar, Advocate for the respondents No.1, 3 to 7.

Ms. K. Chodankar, Addl. Govt. Advocate for respondents No.2 & 8.

CORAM : P.V. KAKADE, J.

DATE : 25th September, 2006.

ORAL JUDGMENT :

Heard both the parties. Rule. Rule returnable forthwith.

2. The appellants-plaintiffs have challenged the order passed by the Ad-hoc Additional District Judge, Mapusa whereby the application for temporary injunction filed by the plaintiffs was partly rejected in the sense

that injunction against the defendants was granted so far as their alleged interference in possession of the plaintiffs in respect of the houses number 728 and 782-A was concerned. However, it was further directed that the parties shall maintain status quo with regard to the house number 728- B which is the part of the order by which the plaintiffs appear to be aggrieved and filed the present appeal.

3. The plaintiffs filed the suit pertaining to their rights involved in various immovable properties consisting of three house properties as well as other properties. However, the temporary injunction application came to be filed along with the suit only to restrain the defendants pertaining to the alleged interference with the plaintiffs' possession in respect of the said three houses along with some other property which was an agricultural land. However, it is to be clarified at this stage that the lower Court has not taken into consideration the plea in respect of the agricultural land and, therefore, we are not concerned with the same.

4. The evidence on record appeared to have convinced the trial Judge that there was prima facie case proved by the plaintiffs so far as the alleged interference by the defendants in respect of the two house properties, namely houses bearing number 728 and 728-A which were

concerned. However, it appears that the plaintiffs' case that house number 728-B was also in their possession and was wrongly locked by defendants No.1, 3 to 7 was not accepted and, therefore, the trial Judge appears to have chosen safe approach to direct the parties to maintain status quo in that regard.

5. On perusal of the entire order passed by the lower Court, I do not see any perversity in the findings recorded by the trial Court, especially as regards the direction to maintain status quo with regard to the property i.e. the house number 728-B is concerned. Therefore, I hold that no interference is called for by this Court so far as the impugned order is concerned. Hence, the appeal stands dismissed. However, it is directed that the hearing of the suit shall be expedited so as to adjudicate it within a period of one year from the date of receipt of writ of this Court. With this direction, the appeal stands disposed of with no order as to costs.

P.V. KAKADE, J.

ssm.